

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE  
2004 APR 27 P 12:48

FIELD STAFF EMPLOYEES UNION,

Plaintiff,

v.

AMERICAN FEDERATION OF  
STATE, COUNTY AND MUNICIPAL,  
EMPLOYEES, AFL-CIO, COUNCIL 93

Defendant

Civil Action No. 04-10577-PBS

DEFENDANT'S ANSWER

Defendant American Federation of State, County and Municipal Employees, Council 93 answers the numbered paragraphs of the Complaint as follows:

1. The allegations merely purport to describe the cause of action, and do not call for an answer. To the extent that they imply or allege that defendant has violated the law or is liable to plaintiffs, they are denied.

2. The allegations merely purport to state the bases for the court's jurisdiction and for proper venue, and do not call for an answer. To the extent that it implies or alleges that defendant has violated the law or is liable to plaintiff, it is denied.

3. Admitted

4. Admitted.

5. Admitted.

6. Defendant admits that Plaintiff submitted to arbitration a grievance concerning the involuntary reassignment of Patricia Couhig and that arbitrator Tim Buckalew was selected to hear the dispute. Otherwise, denied.

7. Admitted.

8. Admitted

9. Defendant admits only that the arbitration award speaks for itself. Otherwise, denied.

10. Defendant admits only that the arbitration award speaks for itself. Otherwise, denied.

11. Defendant admits only that the arbitration award speaks for itself. Otherwise, denied.

12. Denied.

13. Defendant admits only that it did not bring an action to vacate or modify the arbitrator's award, because Patricia Couhig was returned to her prior assignment. Otherwise, denied.

14. Defendant admits only that on or about January 26, 2004, which was approximately one year and two months after the Patricia Couhig reassignment, Martha Fila was involuntarily reassigned. Otherwise, denied.

15. Defendant admits only that it received a copy of the arbitrator's award prior to the reassignment of Martha Fila. Otherwise, denied.

16. Defendant admits only that it did not solicit volunteers and that Martha Fila was not the least senior unit member at the time of her reassignment. Otherwise, denied.

17. Denied.

18. Defendant admits only that plaintiff has filed a grievance as to the reassignment of Martha Fila, and that the grievance has not been processed to arbitration. Otherwise, denied.

19. Denied.

**AFFIRMATIVE DEFENSE**

Plaintiff's claims for the confirmation and enforcement of the arbitrator's award as it seeks to rescind the reassignment of Martha Fila are barred, because plaintiff has failed to exhaust the contractual grievance and arbitration procedure.

WHEREFORE, defendant respectfully asks that this court:

1. Dismiss the Complaint;
2. Enter judgment in favor of Defendant; and
3. Enter such other and further relief as is deemed just.

AMERICAN FEDERATION OF  
STATE, COUNTY AND  
MUNICIPAL EMPLOYEES,  
COUNCIL 93

By its attorneys,




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John M. Carey, BBO No. 549327  
Mary Jo Hollender, BBO No. 238380  
HOLLENDER & CAREY, LLP  
44 School Street, Suite 415  
Boston, MA 02108  
617-227-2566

Date: April 26, 2004

**CERTIFICATE OF SERVICE**

I hereby certify under the penalties of perjury that a true copy of Defendant's Answer in Civil Action No. 04-10577-PBS was served upon the attorneys for all parties by mail.

A handwritten signature in cursive script, appearing to read "John M. Carey", is written over a horizontal line.

John M. Carey, Esq. #549327  
Mary Jo Hollender, Esq. #238380  
HOLLENDER & CAREY, L.L.P  
44 School Street, Suite 415  
Boston, Massachusetts 02108

Attorneys for AFSCME, Council 93

Dated: April 26, 2004

**HOLLENDER & CAREY, L.L.P.**  
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April 26, 2004

Tony Anastas, Clerk  
United States District Court  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, MA 02210

Re: *Field Staff Employees Union v. American Federation  
Of State, County and Municipal Employees, Council 93,*  
**Civil Action No. 04-10577-PBS**


Dear Sir:

Enclosed for filing herewith in the above-captioned matter please find the following:

1. Defendant's Answer; and,
2. Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

  
John M. Carey